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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 10599/2016**

VIRENDER SINGH

..... Petitioner

Through

Mr. Shoeb Shakeel & Mr. Vishal Raj
Sehijpal, Advocates

versus

UOI AND ORS

..... Respondents

Through

Mr. Anurag Ahluwalia, CGSC &
Mr. Kartikeya Rastogi, Advocates for
Respondent/UOI.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

29.08.2019

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1. The Petitioner who has superannuated from the Central Reserve Police Force (CRPF) on 1st October, 2006 seeks the quashing of the orders dated 13th April, 2016 passed by the Police Sub-Inspector (General) Group Centre, CRPF, Imphal (Respondent No.3) and the further order dated 29th September, 2016 of the Directorate, CRPF declining the grant of the second pay upgradation under the Assured Career Progression (ACP) Scheme.

2. The facts in brief are that the Petitioner was appointed in the CRPF on 11th April, 1981. He was transferred from the 48 Battalion to 103 Battalion RAF on 18th August, 2000. He was again posted from the 103 Battalion to

the 44 Battalion in the CRPF on 28th February, 2004.

3. It is stated by the Respondents that during his posting at the 103 Battalion RAF he was detailed for duty as Guard Commander, at the residence of the IGP, RAF. The Petitioner had applied for leave on the ground of sickness of his father. This was not sanctioned by the competent authority. Despite this the Petitioner is stated to have left the guard post without permission of the competent authority after making an entry that he would return soon after seeing his father. The Petitioner thus remain absent from service for three days.

4. On the charge of deserting the services without permission of the competent authority the Petitioner was placed under suspension. A disciplinary inquiry was initiated against him. By an order dated 27th November, 2003 issued by the Commandant 103 RAF, the Petitioner was awarded the punishment of compulsory retirement with effect from that date. The Petitioner appeared before the DG, CRPF on 3rd December, 2003 and placed his grievance. The DG, CRPF vide an order dated 30th January, 2004 reduced the punishment from compulsory retirement to the stoppage of increment for one year without cumulative effect.

5. The Petitioner was thereafter relieved from 103 Battalion RAF to the 44 Battalion, CRPF on 28th February, 2004. Thereafter he opted for voluntary retirement and was discharged on 1st October, 2006.

6. On the question of grant of the ACP benefit the Respondents have

referred to an Office Memorandum (OM) dated 9th August, 1999 issued by the Ministry of Personnel and Training, Annexure-1, which provides the conditions for grant of benefit under the ACP Scheme. Reference is also made to the Standing Order (SO) No. 6/1999 dated 23rd April, 1999 issued by the DG, CRPF setting out the eligibility condition for promotion from the post of Head Constable (HC) to Sub-Inspector (SI). One condition for such promotion is that the HC should not have had a major punishment in the preceding five years.

7. It is submitted by the Respondents that in terms of Section 11 (1) of the Central Reserve Police Force Act, 1949 ('CRPF Act') a punishment not mentioned therein like for e.g., stoppage of increment for one year without cumulative effect, is a major punishment. In terms of the OM dated 9th August, 1999 read with SO No.6/1999 on account of having been awarded a major punishment in the preceding five years, the Petitioner was found ineligible for the grant of ACP. The impugned orders denying the said benefit have been challenged in the present petition.

8. The perusal of Section 11(1) of the CRPF Act reveals that it only defines what are 'minor punishments'. The punishment awarded in the present case to the Petitioner, viz., stoppage of increment for one year with cumulative effect does not figure among the 'minor punishments' as set out in Section 11 (1) of the CRPF Act. This, however, does not automatically mean that all punishments other than 'minor punishments' would be characterised as 'major punishments'.

9. Rule 27 of the CRPF Rules, 1955 sets out the procedure for award of punishments. The table in Rule 27 shows that the punishments at Sl.Nos.1 to 6, which include dismissal or removal from the force, reduction to a lower time scale of pay, compulsory retirement, fine of any amount, confinement in the quarter guard exceeding seven days but not more than 28 days are all punishments that are to be inflicted after a formal departmental inquiry. The punishment of 'stoppage of increments' is at Sl. No. 7. However, this is not one of the punishments that requires a formal departmental inquiry. This itself, therefore, makes a distinction between the punishments at Sl.Nos.1 to 6 and that at Sl. No. 7.

10. In the reply filed by the Respondents, it is stated that since in the present case the punishment was inflicted after a formal inquiry, notwithstanding that it may have been reduced to stoppage of pay for one year without cumulative effect, it should be treated as a major punishment.

11. The Court is unable to agree with the above submission. While, it is correct that the punishment of compulsory retirement can be considered to be a major penalty in terms of the entry at Sl. No. 4 in the table under Rule 27 of the CRPF Rules, it would not automatically characterise the punishment awarded in the present case as a major penalty. What will have to be examined is whether such inquiry would have been mandated if, to begin with, the punishment proposed was that which has been awarded by the DIG, CRPF i.e. stoppage of one increment for one year without cumulative effect. Since this is not to be considered as a major penalty, it cannot come in the way of the Petitioner being granted the benefit of the

ACP. In other words, merely because the original punishment was inflicted after holding an inquiry, it will not make the modified punishment viz., stoppage of increment for one year without cumulative effect a major penalty.

12. For the aforementioned reasons, the impugned orders are hereby set aside. The Respondent is directed to issue appropriate orders not later than four weeks from today granting the Petitioner the ACP benefits from the date it was due. The arrears will be paid to the Petitioner not later than eight weeks from today.

13. The writ petition is allowed in the above terms.

S. MURALIDHAR, J.

TALWANT SINGH, J.

AUGUST 29, 2019

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